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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/554,269	06/29/2000	MANFRED BRAUNER	TPP-30873	2242

7590 08/14/2002

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EXAMINER

EGAN, BRIAN P

ART UNIT

PAPER NUMBER

1772

DATE MAILED: 08/14/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/554,269

Applicant(s)

BRAUNER, MANFRED

Examiner

Brian P. Egan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 May 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1-15 have been considered but are moot in view of the new ground(s) of rejection.

Claim Objections

2. Claims 1-21 are objected to for the use of reference numerals in explaining the invention. Although their removal is not required, the Examiner strongly suggests replacing the numerals with a clearer explanation of the invention. Currently, the claims are vague and would be better understood with a clearer explanation rather than relying on the numerals which reference the figures. Claims language should afford one of ordinary skill in the art the ability to read and understand the claims without relying on other sources to clarify the claims meaning.
3. Claim 1 is objected to for the phrase, "wherein differences in the temperature related shrinkage between the frame and the wall section is absorbed..." The word "is" should be replaced with "are" or "differences" should be replaced with "the difference" to facilitate grammatical correctness. Furthermore, although not required, the Examiner suggests replacing the entire phrase with a means plus function to further clarify the claim (see MPEP sections 2181-2186). A phrase such as, "wherein the resilient section provides a means for absorbing temperature related shrinkage between the frame and the wall section such that warping of the element is avoided," is an example of a means plus function that may help in clarifying the claim.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, for failing to particularly point out and distinctly claim the subject matter which the applicant regards as his invention.

The term “including” is improper under United States patent practice. The examiner suggests replacing “including” with “comprising” to facilitate clarity. Proper correction is required.

6. Claim 1 is further rejected under 35 U.S.C. 112, second paragraph, for failing to particularly point out and distinctly claim the subject matter which the applicant regards as his invention. The phrase, “intermediate wall section” is unclear. For a wall section to be deemed “intermediate,” wall sections must exist both inside and outside the intermediate wall section. Here, only an outer wall portion (the frame) is disclosed. Therefore, the examiner suggests replacing, “intermediate wall section,” with “inner wall section” to facilitate clarity. Proper clarification and/or correction are required.

7. Claims 3 and 7 are rejected under 35 U.S.C. 112, second paragraph, for failing to particularly point out and distinctly claim the subject matter which the applicant regards as his invention. Although amended, the phrase, “in the vicinity of,” is still unclear. The Examiner suggests replacing the phrase with the term “about” to facilitate clarity. Proper clarification and/or correction are required.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1-3, 6-7, 12-13, 19, and 20-21 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Knox (#2,888,764).

Knox discloses an element that can be either flat or semi-flat (Col. 1, lines 15-30) including a circumambient (see Fig. 1) molded polymeric frame (Col. 2, lines 41-42; Col. 5, lines 65-66) (the element comprising four wall sections that form the circumambient frame such that each wall section has a partially circumambient frame (see Figs. 1-2)), an inner wall section (Fig. 1, #13), and a resilient section (Fig. 1, #4) that connects the frame to the inner wall section. The frame forms a U-shape profile (Fig. 5, #54) (a U-shape inherently comprises a plurality (2) of ribs). The wall section is connected to the frame at the gravity center line of the frame (see Fig. 2, #5). The element disclosed by Knox is a picture frame and therefore considered a container for pictures. Although Knox does not explicitly state that the differences in temperature related shrinkage between the frame and the wall section are absorbed by the resilient section without any relative movement between the wall section and the frame whereby warping of the element is avoided, the functional property of preventing shrinkage is inherent. Not only is the resilient section considered a “deformable section” made of polyethylene plastic (Col. 2, lines 54-56), the resilient section provides enough flexibility to the structure such that the inner wall section is moved both toward and away from the frame, depending on the desired end product (Col. 1,

lines 21-30). Thus, the resilient section provides a pivot line at its connection points with both the inner wall and frame (Col. 1, lines 21-30; see also Figs. 2 and 3(a-b)). Furthermore, although not explicitly stated, the frame structure inherently provides a carrying structure.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Knox ('764).

Knox teaches a flat or semi-flat element as detailed above. Although Knox teaches a frame comprising a plurality of ribs, it is not explicitly stated whether the ribs are spaced at a distance from each other smaller than the height of the height of each of the plurality of ribs. It would have been an obvious matter of design choice, however, to change the size of each rib and distance between each rib, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955).

12. Claims 4, 8-9, 14, 16, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Knox ('764) in view of Brauner (WO 97/39954).

Although Knox teaches a molded element as detailed above, Knox fails to teach the manner in which the element is molded. Note, however, that the method limitations set forth in relation to the method of molding the article are given little to no patentable weight in an article

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claim. It is unclear whether the molded frame of Knox comprises a wall structure that is thicker on the side closest to the inner wall.

Brauner teaches a method of molding a frame structure for a collapsible structure wherein the frame structure is injection molded wherein a hollow profile is formed wherein the portion of the hollow profile closest to the inner wall structure is thicker than the rest of the hollow profile (p. 2, lines 7-11). Brauner teaches the aforementioned method of forming a frame structure for the purpose of providing a collapsible structure with reinforcement by providing a reinforced frame element wherein the need for further structural reinforcement such as the use of reinforcement ribs is eliminated (p. 2, lines 2-7). It would have been obvious through routine experimentation to one of ordinary skill in the art at the time applicants invention was made to have injection molded a frame structure such that one side of the structure is thicker than the rest for the purpose of providing a collapsible structure with reinforcement by providing a reinforced frame element wherein the need for further structural reinforcement such as the use of reinforcement ribs is eliminated as taught by Brauner.

Therefore, it would have been obvious to one of ordinary skill in the art at the time applicants invention was made to have modified Knox to include an injection molded frame structure wherein the inside portion of the frame structure is thicker than the rest of the frame structure as taught by Brauner in order to provide the collapsible picture frame structure with reinforcement by providing a reinforced frame element wherein the need for further structural reinforcement such as the use of reinforcement ribs is eliminated.

13. Claims 5, 10-11, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Knox ('764) in view of King (#2,189,521).

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Knox teaches a flat or semi-flat element as detailed above. Although Knox provides a pivot line at the intersection of the resilient section and the inner wall structure, Knox fails to teach the inner wall structure being tapered wherein the inner wall structure is thinner at the pivot line than the average thickness of the inner wall structure. Given that the inner wall structure taught by Knox is a frame, it is an obvious matter of design choice whether the frame is tapered. As detailed in Figs. 3(a-b), #2, the inner frame taught by Knox is tapered, just not tapered such that the frame is at its narrowest point at the connection between the resilient section and the inner frame. It is notoriously well known in the art that picture frames may be tapered such that the wall gets thinner as it extends away from the picture as evidenced by King (see Figs. 1-2 and 8-10). Therefore, it would have been an obvious matter of design choice to choose a frame such that the tapered portion is thinnest at the point of intersection with the resilient section depending on the desired aesthetic appearance of the end product.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian P. Egan whose telephone number is 703-305-3144. The examiner can normally be reached on M-F, 8:30-5.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Y. Pyon can be reached on 703-308-4251. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

BPE

August 9, 2002


HAROLD PYON
SUPERVISORY PATENT EXAMINER
1772

8/9/02